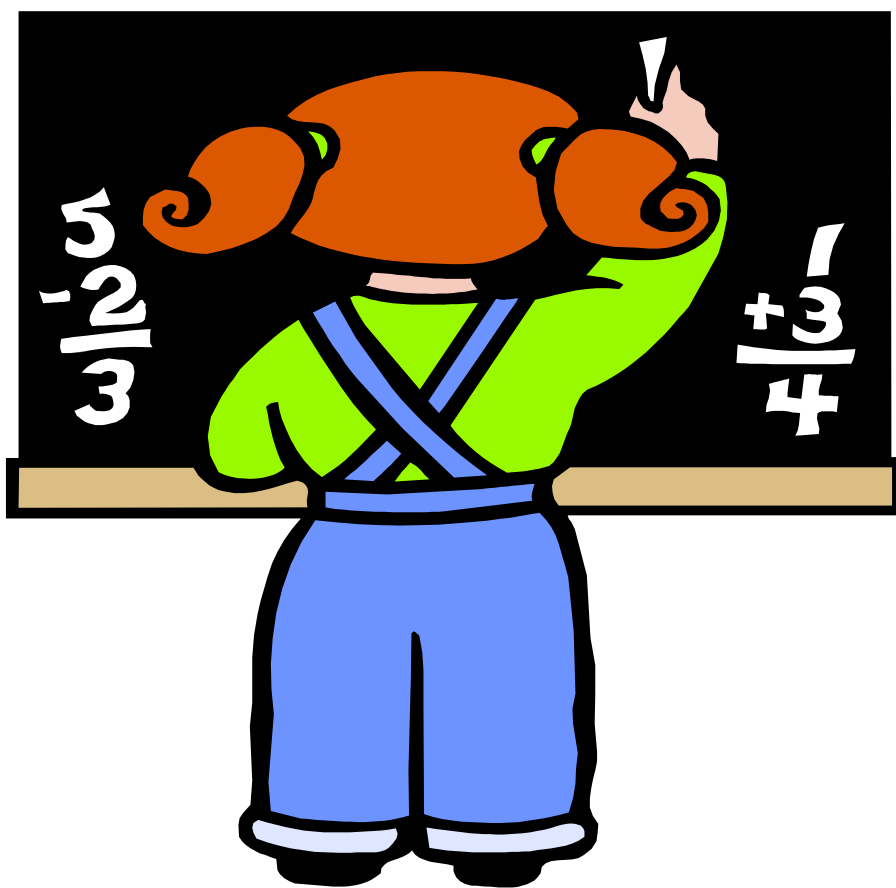


# Extended School Year (ESY) Services



Technical Assistance Document  
Nebraska Department of Education  
December 2003

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## FORWARD

**Extended School Year (ESY)** is a term used to define special education and related services provided for children with disabilities during periods when school is not in session.

**In March 1999**, requirements for ESY services were included for the first time in federal regulations implementing the 1997 amendments to the Individuals with Disabilities Education Act (IDEA). Those requirements state:

### **§300.309 Extended school year services.**

#### *(a) General.*

- (1) Each public agency shall ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.*
- (2) Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with §§300.340-300.350, that the services are necessary for the provision of FAPE to the child.*
- (3) In implementing the requirements of this section, a public agency may not---*
  - (i) Limit extended school year services to particular categories of disability; or*
  - (ii) Unilaterally limit the type, amount, or duration of those services.*

#### *(b) Definition. As used in this section, the term extended school year services means special education and related services that--*

- (1) Are provided to a child with a disability—*
  - (i) Beyond the normal school year of the public agency;*
  - (ii) In accordance with the child's IEP; and*
  - (iii) At no cost to the parents of the child; and*
- (2) Meet the standards of the SEA. (Authority: 20 U.S.C. 1412(a)(1))*

**The United States Department of Education** did not set standards for ESY, but rather assigned each state the task of ensuring that the right to ESY services is based on a child's entitlement to a Free Appropriate Public Education (FAPE).

**Nebraska Public Schools** are committed to providing all children with disabilities a Free Appropriate Public Education. With that commitment in mind, this Technical Assistance (TA) document was developed to serve as a guide for parents and educators across the state to assist them in making decisions regarding the provisions for extended school year services.

## DEFINITION OF TERMS

**Extended School Year (ESY) Services** – Special education and related services provided for children with disabilities during periods when school is not in session.

**FAPE** – Free Appropriate Public Education

**IDEA** – Individuals with Disabilities Education Act

**IEP** – Individual Education Program

**OSERS** – Office of Special Education and Rehabilitative Services

**OSEP** – Office of Special Education Programs

**Critical Life Skills** – Related to those skills that lead to independent functioning

**Regression** – Substantial loss of any critical life skills. Some degree of loss in skills typically occurs with all children during normal school breaks and would not be considered substantial.

**Recoupment (Recovery)** – The ability to recover a loss of skills in a reasonable time following a normal school break. Most children with disabilities recoup skills within 60 calendar days. Reasonable recoupment rates vary among individuals based on individual learning styles and rates, and accordingly, some children with disabilities may require more than 60 calendar days to recoup.

**Degree of Progress** – The IEP team must review the child's progress on any IEP objectives targeting critical life skills, and determine whether, without ESY, the child's degree of progress on those IEP objectives is likely to prevent the child from receiving some benefit from his or her educational program during the regular school year.

**Emerging Skills or Breakthrough Opportunities** – The IEP team determines whether any IEP objectives targeting critical life skills are at a breakthrough point and whether the interruption of instruction of the critical life skills caused by the school break is likely to prevent the child from receiving some benefit from his or her educational program during the regular school year.

**Interfering Behaviors** – The IEP team determines whether any IEP objectives targeting interfering behaviors, such as stereotypic, ritualistic, aggressive, or self-injurious behavior(s) have prevented the child from receiving some benefit from his or her educational program during the previous school year, or whether the interruption of programming which addresses the interfering behavior(s) is likely to prevent the child from receiving some benefit from his or her educational program during the next school year.

**Nature and Severity of the Disability** – The IEP team determines whether the nature and severity of the disability is such that the interruption of the instruction of critical life skills caused by the school break is likely to prevent the child from receiving some benefit from his or her educational program during the regular school year.

**Special Circumstances** – The IEP team determines whether special circumstances are such that the interruption of instruction of the critical life skills caused by the school break is likely to prevent the child from receiving some benefit from his or her educational program during the regular school year.

**Some Benefit** – An improvement in meeting the critical life skills objective as determined by the child's progress towards meeting the objective criteria as written in the IEP for the current school year. Some benefit is determined by the professional judgment of the members of the IEP team.

## ESY SERVICES – What the Courts Have Said

Some school districts have become very comfortable and familiar with ESY services and routinely include it in timely IEP discussions. Others resist providing it, and still others are simply uninformed. In a large number of instances, the courts have been asked to determine the eligibility of individual children for extended school year services. This section will address the evolution of ESY services through the court system.

The first significant case in this arena was ***Armstrong v Kline*** (EHLR 551:195) (Pennsylvania, 1979). The court stated: “The skill regression during the summer months for some children, coupled with their limited recoupment ability, is such that their basic educational needs cannot be met in a traditional 180-day program.” The court also required state and local school districts “to provide an education to handicapped children in excess of 180 days” as determined by each child’s needs. It also noted that recoupment time for lost skills is “usually much greater” for children with disabilities.

**NOTE:** The case was upheld on appeal by the circuit court.

In ***Georgia Association for Retarded Citizens v McDaniel*** (EHLR 555:251) (1983), the Court ruled that a school system cannot use a “lack of available funds” argument to deny ESY services to a child with a disability. A school system must look at the child’s needs, rather than its budget, when determining ESY services for a child.

The case of ***Bucks County Public Schools v Commonwealth of Pennsylvania*** (EHLR 559:153)(1987) showed that academic regression isn’t the only qualification for ESY eligibility. The judge in the Bucks County case stated that regression in emotional development for emotionally disturbed children is often “caused by interruptions in the educational programming” and ordered that prediction of regression in emotional development qualifies as a need for ESY.

***Holmes v Sobol*** (EHLR 559:463)(1988) was a significant case because it found that physical therapy was a related service that could be provided by ESY, and further ruled that a related service can be a sole education program. The case stated that without the maintenance of physical strength through therapy, the child would not be able to benefit from his general education.

In ***Williams v Gering Public Schools*** (236 Neb.722, 463 N.W. 2d 799 Supreme Court of Nebraska) (1990), the parents of a child with multiple disabilities believed that a 12-month program could only be provided for their child in a residential placement. This court agreed that the child needed a

12-month school program in order to receive a Free Appropriate Public Education, but did not require that it be provided in a residential facility, specifying that an interruption from one school to another just for a summer program would provide an unacceptable level of regression for the child.

A 4<sup>th</sup> Circuit Court decision, ***JH by JD v Henrico County School Board*** (38 IDELR 261) (2003), pointed out that the mere fact of likely regression was not enough to warrant ESY services because all students “may regress to some extent during lengthy breaks from school.”

While litigation continued in courtrooms across the country, the Office of Special Education Programs (OSEP) and the Office of Special Education and Rehabilitative Services (OSERS) wrote policy letters, which provided for school districts an interpretation of the federal regulations regarding ESY services. The Office of Civil Rights (OCR) wrote letters of findings which defined when the denial of ESY services violated a person’s civil rights. Together, these letters provided parallel support for the court decisions by: (a) defining ESY criteria and related services in an ESY program, (b) requiring school districts to look at issues beyond regression or recoupment when determining ESY eligibility, (c) emphasizing the need to set higher ESY standards than simply working toward self-sufficiency, (d) refusing to allow school districts to offer ESY programs that were available only to the most severely disabled children, and (e) requiring that integration with nondisabled peers be provided in ESY programs if required by the IEP.

The result of the court cases and substantive letters led to the written federal regulations which describe how ESY services are to be implemented according to IDEA. The regulations define ESY as “special education and related services” which (a) go beyond the normal school year, (b) are addressed and mandated by the IEP, and (c) are free to the parents. The regulations also require that ESY services are available to each child with a disability and, “the determination of whether a child with a disability needs extended school year services must be made on an individual basis by the child’s IEP team.” 34 CFR 300.309 (1997).

The regulations also add two notes clarifying these definitions. The first note states that school districts cannot limit ESY services to “particular categories of disability or unilaterally limit the duration of services.” The second note gives states the authority to set standards for use in determining ESY eligibility “on an individual basis,” suggesting the consideration of factors such as the “likelihood of regression, slow recoupment, and predictive data based on the opinion of professionals.”

## ELIGIBILITY FOR ESY SERVICES

The purpose of an extended school year is to prevent or slow severe skill regression caused by an interruption of special education services during extended periods when school is not in session. It is not to enhance the present levels of educational performance exhibited by children with disabilities at the end of the regular school year. The need for extended school year services is based on a construct of skill regression and a child's limited capacity for recoupment. An extended school year may be provided only when it is determined that a child might regress in a critical skill area to such an extent that recoupment of the skill loss would require an unusually long period of time to recoup or make it unlikely or impossible to recoup the present level of educational performance. Within the categories marked by a severe disability, it is not appropriate to assume that a significant regression/recoupment factor exists. Some children with severe disabilities may consistently demonstrate a limited array of skills, but **not** demonstrate a significant regression/recoupment factor in any of the skills. Therefore, these children would not be appropriate candidates for ESY services.

All children with disabilities who have a current IEP must be considered for ESY services at least annually. A school district may not limit ESY services to particular categories of disability, or unilaterally limit the type, amount, or duration of those services. A child's involvement in ESY services one year does not automatically guarantee services in following years. Similarly, the fact that no ESY services were provided in a prior year does not mean ESY services are not needed in the current year. These requirements apply to all children with a disability between the ages of three (3) through the age in which the child remains eligible for special education services. When it is determined that a child is in need of extended school year services, it will be provided as a related service at no cost to the parents, and must be provided under the auspices of an IEP.

The IEP team determines the need for ESY services. The team consists of the parent(s) of the child, the child if appropriate, the general education teacher(s), the special education teacher(s) and related service providers, an administrator or school district representative, and others as appropriate. Each person fulfills an important role by sharing critical information about the child and his or her unique needs. As part of the IEP process, the team must determine if a child needs a program of special education and related services extending beyond the normal school year. In such a child, restricting services to a standard number of school days per year would not allow development of an education program that is truly individualized.



Not all children with disabilities need ESY services nor do the provisions of ESY mean the child needs such services each year. Children with disabilities, like their peers without disabilities, benefit from breaks in a school schedule. Breaks in formal programming allow most children to generalize school-learned skills and behaviors to their home and community settings.

The critical question that each IEP team must ask is **“Will the learning that occurred during the regular school year be significantly jeopardized if ESY services are not provided?”**

Reasons why ESY services may be needed vary from child to child. Some children may suffer severe losses of social, behavioral, academic, communication, or self-sufficiency skills during interruptions in instruction. This is particularly true during long holiday breaks and summer vacations. The losses suffered may be so extensive that when school resumes, excessive amounts of time are needed to recover (recoup) lost skills, as compared to typical same-age peers. In determining significant regression and limited recoupment, it is important to consider the distinction between generalization and maintenance. A loss of skills over time could be due to failure to maintain performance or failure to generalize acquired skills to new settings. Many children do not automatically generalize acquired skills to environmental conditions outside those under which the initial learning took place. A child may experience losses because he or she reaches a critical learning stage at the end of the school year. He or she may need ESY services to avoid permanent loss of a learning opportunity. For other children, skills that support continued placement in the least restrictive environment (LRE) can be maintained only by ESY services. The IEP team will use regression/recoupment criteria in determining the need for ESY services, while considering a broad range of other factors, including category of disability, severity of disability, parent's ability to provide an educational structure at home, and the child's rate of progress. Court cases also include the following factors to be considered in the determination of need for ESY services: 1) the child's behavioral and physical problems; 2) the availability of alternative resources; 3) the ability of the child to interact with non-disabled children; 4) the areas of curriculum that need continuous education; and 5) the child's vocational needs.

Determination of the need for ESY services cannot be based on a formula, as formulas lack the individualization that ensures children with disabilities have appropriate educational planning to accommodate their unique needs. Case law supports the conclusion that the determination of need for ESY services cannot be based on a policy that prohibits or inhibits full consideration of the individual needs of each child with a disability.

In addition to the valuable information already being gathered to determine progress toward annual goals and short-term objectives, a child's IEP team should address the following points in determining the need for ESY services:

- Consider information from a variety of sources.
- Measurement should be sensitive to small changes that may occur during short breaks in services.
- Measurement information should be gathered during the child's performance after long week-ends, vacations, and previous summer breaks.
- Consider both prior experience with regression/recoupment and predictive information.

## ESY SERVICES

The IEP team must consider the need for ESY services at the annual IEP meeting. However, under some circumstances, the need for ESY services and the characteristics of those services may not be known at the time of the annual IEP meeting. In that case, the team can identify the date it will reconvene to determine the need and ESY services to be provided. The regulations do not specify how many days in advance of the end of the school year that team determinations must be finalized; however, the team meeting to discuss ESY services should be conducted early enough to allow for appropriate planning. Any team member, including the parent(s), can request a new IEP meeting to reconsider ESY needs or the extent of ESY services.

ESY services are intended to minimize the effects of significant regression. Therefore, it is reasonable for ESY services to concentrate on areas at risk for significant regression. Because of this focus, ESY services may differ markedly from the services provided to a child during the school term. Services would logically be modified in a way to enhance generalization and maintenance of skills. As with any IEP, the needs of the child dictate the program rather than any available program dictating the services to be provided to the child.

Individualized ESY services could be provided in a traditional classroom setting; however, the location and nature of service delivery can vary with the needs of the child.

Other appropriate service delivery options could include:

- school-based programs that vary in length of schedule (e.g., two weeks, six weeks, ten weeks),
- grouping of children with similar goals and objectives,
- intra-school cooperative programs,
- a cooperative program with another agency,
- limited child contact, perhaps 3-4 times during the summer to prevent regression,
- a week of intensive review just prior to the beginning of the school year
- multi-school shared programs,
- contractual arrangements,
- community based programs, and
- transition opportunities.

Some children may need services provided in the home or at an alternative location. Some children might benefit if the school provides training to the parent in advance of long breaks in regular school schedules. The teacher and parent could work together, with materials sent home and progress periodically

monitored by the teacher. Such home consultations prior to the vacation and at intervals during the vacation, if needed, could provide support and instruction to parents in preventing regression. It offers the additional benefit of increased opportunities for practice and generalization across settings. However, a school cannot simply choose to delegate its responsibilities for providing ESY services to the parents. The option of home consultation would depend upon availability of parents, their desire to assist, the complexity of their child's needs, and other factors specific to the child's needs.

For other children, depending upon the nature of the skill to be maintained, a summer camp, recreational program, or a district's optional summer school program could provide opportunities for maintenance of skills.

## QUESTIONS AND ANSWERS

### **Can schools refuse to consider extended school year services?**

Schools cannot refuse to consider extended school year (ESY) services. The Individuals with Disabilities Education Act (IDEA) (300.309) requires all decisions regarding ESY to be made on the basis of individual needs of a child as documented in the IEP. Any policy that attempts to be categorical is not individualized; therefore, not in compliance with federal regulation. Examples of categorical statements include:

- “No child gets summer programming.”
- “There are no related services during summer.”
- “If you get summer school then you get the same thing they offer everyone else.”
- “Only individuals with severe disabilities get summer services.”

### **How often must a child be considered for ESY?**

All children with disabilities must be considered for ESY services at least annually.

### **Must schools notify parents of the availability of extended year services?**

Just as the school provides general notice to parents about other services (e.g. evaluations, physical therapy), the school must inform parents of the availability of extended school year services when appropriate. Schools must discuss extended school year services at the IEP when it appears the child may need it. The burden is not on the parents to bring it up or to prove it is needed. Schools have a duty to identify needs, to evaluate those needs, to discuss them at the IEP meeting, and to offer an appropriate education based on those needs.

### **If a child does not meet all of his or her IEP goals and objectives during the regular school year, does this mean ESY services are required?**

No. ESY services should not be granted solely on the basis of the child with disabilities not achieving one or more IEP goals or objectives. In a *Letter to Klecza* (30 IDELR 270), OSEP stated: “Whether a child with a disability requires ESY is a decision for that child’s IEP team. Nothing in federal law or the corresponding regulations requires children with disabilities who do not meet their IEP goals to participate in ESY.” The critical question that each IEP team must ask regarding ESY services is “Will the learning that occurred during the regular school year be significantly jeopardized if ESY services are not provided?”

### **Should new goals and objectives be developed for ESY services?**

No. ESY services address the maintenance of previously learned skills, as identified in the current IEP. The intent of ESY services is not to teach new skills.

**How does the IEP team determine the amount of ESY services of each child?**

The determination of the extent of ESY services must be made on an individual basis after a thorough review of the child's goals and objectives as documented in the IEP.

**How does an IEP team document ESY services?**

Documentation of ESY services should specify which goal(s) will be reinforced during ESY services. Documentation should describe the type of services (such as direct instruction, specific related services, consultation, or supervision), the beginning and the ending dates of services, the minutes per week of each service, service provider, and where the service will be provided.

**May a child's ESY services be provided in a district's optional summer school program?**

Yes. The summer school setting could offer unique and appropriate opportunities for a child to enhance generalization of skills in a setting very similar to that of the regular school year, as well as provide frequent practice for maintenance of skills. However, ESY services must be tailored to the unique needs of the child and cannot be based solely on availability of services during the summer, or on the district's summer school schedule.

**Must the IEP team consider the provision of related services as ESY services?**

Yes. The IEP meeting participants must consider whether the child requires related services, such as physical therapy, occupational therapy and speech therapy, in order to benefit from special education. If a related service is necessary for the child to benefit from special education either during the ESY or regular academic school schedule, that related service must be provided. While a child may not need extended school year special education, that child may need extended school year related services in order to benefit from special education when school resumes during the school term. If a child needs only a related service during ESY, it must be provided.

**Who may provide ESY services?**

It is necessary to use licensed and qualified staff for ESY services. Non-licensed staff may be used if they are trained and supervised by licensed staff. Staffing options might include supervised practicum students, supervised student teachers, supervised paraeducators, or contracted/purchased services from agencies.

**Is transportation provided as a part of ESY?**

Transportation is a related service and must be offered if it is necessary for the child to benefit from special education. If necessary, transportation should be

added as a related service for the duration of ESY services in the event the child would need to be transported to the site where his or her ESY services are being provided.

**If a regular education setting is necessary to implement an ESY IEP for an individual child, could a district be required to pay for services in a private school setting?**

School districts are required to purchase private school placements in a regular education setting if they are required to implement a child's IEP. Each child's placement determination must be individualized and based upon the content of the IEP. OSEP recognizes that a child's IEP for ESY services will probably differ from the child's regular IEP, *since the purpose of the ESY program is to prevent regression and recoupment problems*. Therefore, the placement needed to implement the child's IEP for ESY services may differ from the child's placement during the regular school year.

**Can decisions about ESY be determined retrospectively?**

ESY services are not earned by what happened last summer. A child is entitled to them because of what might happen next summer. The issue is whether there is significant jeopardy to the learning that occurred during the regular school year if the child is not provided a program.

**Must a full continuum of placements be maintained during the summer for ESY?**

In a *Letter to Myers* (16 IDELR 290), OSEP states: "Because ESY services are provided during a period of time when the full continuum of alternative placements is not normally available for any children, the United States Department of Education does not require states to ensure that a full continuum of placements is available solely for the purpose of providing ESY services. However, IDEA does require that options on the continuum be made available to the extent necessary to implement a child's IEP."

**Does receipt of ESY services one summer assure services the following summer?**

No. A child's involvement in ESY services one year does not automatically guarantee services in the follow years. Similarly, the fact that no ESY services were provided in a prior year does not mean ESY services are not needed in the current year. The decision is made on an annual basis.

**Is the IEP team required to demonstrate regression before ESY services are provided?**

No. In a *Letter to Given* (39 IDELR 129), OSEP stated that a child cannot be required to fail, or be required to demonstrate a lack of progress for an entire year, simply to prove need for ESY services. If no information is available on regression, the need may be shown by professionals knowledgeable about the child and the disability.

**How are ESY services determined for a child turning three over the summer months?**

An IDEA eligible child who turns three during the summer, and is on an IEP, must be considered for ESY in the same manner as any other IDEA child. When a child is going to turn three during the summer, the IEP or IFSP developed 90 days prior to the third birthday must “specify the child’s program upon the third birthday, including ESY, if needed by a particular child to receive FAPE. If ESY services are not needed to provide FAPE, the date of initiation of services could be the beginning of the upcoming school year.” *Letter to Anonymous* (22 IDELR 980) (OSERS 1995)

**What is the status of a child’s ESY services when there is a dispute over the proposed program?**

If parents disagree with a decision of the team not to provide ESY services, and the timing of the decision does not allow sufficient time to obtain resolution of the dispute, then it is recommended that the child be provided with ESY services pending the outcome of the dispute resolution process.

**What if a parent does not agree to the child receiving ESY services?**

Some parents may decide that their child does not need ESY services. In that event, a school district cannot compel a child to participate in ESY services. However, the IEP team should document the parents’ decision to reject ESY services.

**Must the entire IEP be implemented during ESY services?**

Only those skill areas which would suffer a decline as a result of an interruption in instruction would be addressed during ESY services.



## Appendix I

### Comparison of ESY and Summer School Services

Summer School Services	Extended School Year Services
<b>Definition:</b>	<b>Definition:</b>
An optional or permissive program provided beyond the regular school year. A school may or may not elect to operate summer classes.	Services required by IDEA 97 to be provided beyond the traditional school year for any child with a disability who needs special education services and/or related services in order to receive a free appropriate public education (FAPE).
<b>Purpose:</b>	<b>Purpose:</b>
Teaching new content or enrichment; offering recreational or academic opportunities not present during the regular school year. Children with and without disabilities benefit from additional educational opportunities.	Assuring a child's meaningful progress during the regular school year (FAPE) by maintaining learned skills and preventing loss of critical skills. If services are not provided, child's skills are temporarily or permanently lost, jeopardizing progress. ESY services are not provided for the purpose of helping children with disabilities advance in relation to their peers.
<b>Cost:</b>	<b>Cost:</b>
May charge fee.	Free.
<b>Duration:</b>	<b>Duration:</b>
Typically operated on a set schedule for a number of weeks during the summer (e.g., two, six or ten weeks) for all those who participate.	Schedule, setting, and extent of services are designed to meet the individual needs of a child in order to assure FAPE. The amount and duration of services are not determined arbitrarily by a district's summer school schedule, but by the IEP team.
<b>Criteria:</b>	<b>Criteria:</b>
General education setting, based on needs and interests of all children. A child's participation does not depend on a team determination of need.	Specifically designed instruction based upon a child's individual needs. IEP team determines need and extent of services to meet the unique needs of the child.

## APPENDIX II

### EXTENDED SCHOOL YEAR SERVICES CHECKLIST

- ☐ The child has been considered for ESY at least annually by the IEP team.
- ☐ The current IEP is the basis for ESY services.
- ☐ ESY is considered for all the goals/objectives listed in the IEP.
- ☐ There is a likelihood of *significant* regression during long interruptions of instruction and/or therapy without ESY, and the rate of probable recoupment of skills will be excessive.
- ☐ Other factors considered by the team:
- |                                                                |                                                 |
|----------------------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> Degree of impairment                  | <input type="checkbox"/> Program interruption   |
| <input type="checkbox"/> Opportunities at home                 | <input type="checkbox"/> Critical life skills   |
| <input type="checkbox"/> Physical issues                       | <input type="checkbox"/> Interfering behaviors  |
| <input type="checkbox"/> Other factors identified by the team: | <input type="checkbox"/> Category of disability |
- \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- ☐ The team documented the need for ESY retroactively through:
- ☐ Historical data
- ☐ Observations / charting
- ☐ Pre/Post testing
- ☐ Other:
- \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- ☐ The team identified the need for ESY prospectively by:
- ☐ Documented opinions of team members
- ☐ Other:
- \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- ☐ No other services are available during the summer to prevent regression.
- ☐ Parental permission obtained
- ☐ Placement and service delivery will be determined upon parent consent.
- ☐ The child does not qualify for ESY services. The receiving teacher should observe for regression and recoupment during the first quarter of the next school year.

## **APPENDIX III**

### **DETERMINATION OF ESY SERVICES**

#### **DOCUMENTATION REVIEWED**

- A. Current IEP, especially the present levels of educational performance, annual goals, and short-term instructional objectives
- B. Pre- and post-testing using criterion-referenced assessment procedures.
- C. Parent/Teacher activities which specifically addressed the maintenance of learned skills while programming was interrupted.
- D. Consideration of pertinent medical, psychological, and educational data.
- E. Consideration of a data base of regression/recoupment. Data should be gathered and documented periodically during the regular school year which reflects the regression/recoupment cycle experienced following interruptions of instruction services.
- F. Areas of learning which are identified as an integral part of a skill area required in order for the student to reach his/her assessed potential, such as social, motor, behavioral, academic, self-help, and communicative abilities.
- G. Documented evidence showing that substantial regression caused by interruption in educational programming, together with the student's limited recoupment capacity may result in a significant delay in recoupment of critical skills.

#### **QUESTIONS ASKED**

- A. Does the student demonstrate a severe disability in one or more areas?
- B. Does the student experience significant regression?
- C. Is a significant amount of time and effort required to assist the student in regaining previously learned behaviors and skills?
- D. If the student has been enrolled in a special education program in previous years, has there been a record of regression and limited recoupment following summer breaks?
- E. Have previous extended educational programs for this student resulted in positive rather than negative benefits for the student?
- F. Would the benefits derived from an extended school year program outweigh the positive benefits of a summer vacation?
- G. Have other program options, which would meet the needs of the student, been considered and determined to be of less benefit than an extended school year program?

Note: A significant number of positive responses may suggest the need for the consideration of ESY services.

## APPENDIX IV

### ESY SERVICES PAGE

Date: \_\_\_\_\_

Child: \_\_\_\_\_

Disability Category: \_\_\_\_\_

A. Discussion of ESY (Attach additional sheets if necessary).

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B. Eligible for ESY: \_\_\_\_\_ Yes \_\_\_\_\_ No

C. Reason: (Check)

\_\_\_\_\_ Serious of regression  
\_\_\_\_\_ Degree of impairment  
\_\_\_\_\_ Opportunities at home  
\_\_\_\_\_ Physical issues  
\_\_\_\_\_ Previous ESY participation

\_\_\_\_\_ Time to recoup skills  
\_\_\_\_\_ Program interruption  
\_\_\_\_\_ Interfering behavior  
\_\_\_\_\_ Critical life skills

D. Skills to be Maintained:

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E. ESY Services to be Provided:

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F. Location/Frequency/Duration of ESY Services:

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## APPENDIX V

<b>EXTENDED SCHOOL YEAR (ESY) IS:</b>	<b>EXTENDED SCHOOL YEAR (ESY) IS NOT:</b>
<ul style="list-style-type: none"> <li>• Based only on the individual child's specific critical skills that are key to his/her overall educational progress as determined by the IEP committee.</li> <li>• Designed to maintain mastery of critical skills and objectives represented on the IEP and achieved during the regular school year.</li> <li>• Designed to maintain a reasonable readiness to begin the next year.</li> <li>• Based on multi-criteria and not solely on regression/recoupment.</li> <li>• Considered as a strategy for minimizing the regression of skill, thus shortening the time needed to gain back the same level of skill proficiency that existed at the end of the school year.</li> <li>• Deliverable in a variety of environments and structures such as:               <ul style="list-style-type: none"> <li>a) Home with the parent teaching, and staff consulting</li> <li>b) School based</li> <li>c) School based with community activities</li> <li>d) Related services along or in tandem with the above.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• A mandated 12-month service for all children with disabilities.</li> <li>• Required for the convenience of the school or parents and, therefore, cannot serve as a day care or respite care service.</li> <li>• Required or intended to maximize educational opportunities for any child with a disability.</li> <li>• Necessary to continue instruction for all of the previous year's IEP goals; rather, the focus should be on those specific, critical skills where regression, due to an extended vacation period, may occur.</li> <li>• Intended to help children with disabilities advance in relation to their peers.</li> <li>• For those children with disabilities who exhibit regression which is solely related to medical problems resulting in degeneration, or transitional life situations such as divorce or death of a family member. This type of regression is not due to the interruption of instruction.</li> <li>• Required solely when a child fails to achieve IEP goals and objectives during the school year.</li> <li>• To provide a child with education beyond that is prescribed by his/her IEP goals and objectives.</li> </ul>

## REFERENCES

*Armstrong v Kline*, Education for the Handicapped Law Report 551:195 (E.D. Pa. 1979)

*Bucks County Public Schools v Commonwealth of Pennsylvania*, Education for the Handicapped Law Report 559:153 (Commonwealth Ct of PA. 1987)

*Georgia Association for Retarded Citizens v McDaniel*, Education for the Handicapped Law Report 555:251 (11<sup>th</sup> Circuit 1983)

*Holmes v Sobel*, Education of the Handicapped Law Report 559:463 (W.D. NY. 1988)

*JH by JD and SS v Henrico County School Board*, 38 IDELR 261 (4<sup>th</sup> Circuit Court, 2003)

*Letter to Anonymous*, 22 IDELR 980 (OSERS 1995)

*Letter to Given*, 39 IDELR 129 (OSEP 2002)

*Letter to Kleczka*, 30 IDELR 270 (OSEP 1998)

*Letter to Myers*, 16 IDELR 290 (OSEP 1989)

*Williams v Gering Public Schools* 236 Neb. 722, 463 N.W. 2d 799 (Supreme Court of Nebraska, 1990)